

VZCZCXRO3289
PP RUEHDBU RUEHIK RUEHLN RUEHPOD RUEHSK RUEHVK RUEHYG
DE RUEHKV #0747 1201604
ZNR UUUUU ZZH
P 301604Z APR 09
FM AMEMBASSY KYIV
TO RUEHC/SECSTATE WASHDC PRIORITY 7724
INFO RUCNCIS/CIS COLLECTIVE
RUEHZG/NATO EU COLLECTIVE

UNCLAS KYIV 000747

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [PGOV](#) [PREL](#) [UP](#)
SUBJECT: COURT GIVES "NEUTRAL" ANSWER ON PRESIDENT'S APPEAL

SUMMARY

[¶1.](#) (SBU) In a decision announced April 30, the Constitutional Court denied President Yushchenko clear legal cause to dissolve the Rada and call early parliamentary elections. Coalition supporters claimed that the court's "neutral" answer and refusal to rule on the specifics of Yushchenko's appeal is a de facto win for the coalition. However, presidential representatives offered a different interpretation, with Deputy Presidential Secretariat head Popov claiming the court ruling gives support for dissolution of the Rada. End Summary.

NO ANSWER IS THE COURT'S ANSWER

[¶2.](#) (SBU) The Constitutional Court ruled on April 30 that the current coalition followed constitutional norms when it formed on December 9, but did not rule on the specifics of President Yushchenko's appeal. Yushchenko argued any new Rada coalition is required to nominate a new Prime Minister and the failure of the current coalition to do so within the specified time frame give him cause to dissolve the Rada. Chief Justice Andriy Stryzhak said that the court could not rule as to whether nominating a Prime Minister was the right or a requirement for a coalition because the Constitution does not specify. He said that the court could not create an answer that was missing in the Constitution, so it issued a "neutral" ruling reiterating the constitutional procedure for forming a new coalition.

COALITION CLAIMS WIN, PRESIDENT DENIES DEFEAT

[¶3.](#) (SBU) The Rada's representative to the Constitutional Court, Anitoliy Selivanov, claimed that the ruling reinforces the legitimacy of the coalition. He said it does not give Yushchenko the legal justification he was seeking to dissolve the Rada and is a victory for Prime Minister Tymoshenko. Deputy Secretary of the Presidential Secretariat Ihor Popov disagreed, saying that the ruling gives Yushchenko the right to dismiss the Rada and call elections. However, Presidential Secretariat Deputy Head Marina Stavniychuk later said that the President would need to "thoroughly study" the ruling and consult with Rada leaders before deciding on his course of action.

COMMENT

[¶4.](#) (SBU) The court's side-stepping of the President's appeal and refusal to give him clear cause to dissolve the Rada appears to favor the coalition. Renewed lengthy court battles would ensue if the President tries to move forward on dissolving the Rada on the basis of this "neutral" ruling.

TAYLOR